

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

WILLIAM B. KLINEKOLE, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-12-654-D
	)	
CAROLYN W. COLVIN,	)	
Acting Commissioner of the Social	)	
Security Administration,	)	
	)	
Defendant.	)	

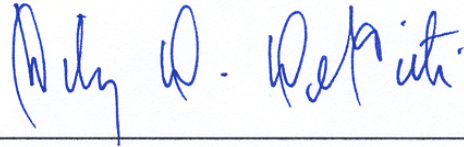
**ORDER AWARDING ATTORNEY'S FEES**

This matter comes before the Court for consideration of Plaintiff's Application for Award of Attorney's Fees Pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 [Doc. No. 19]. Plaintiff seeks an award of fees in the amount of \$3,824.70 for legal services provided by his attorney (20.2 hours) and a paralegal (1.1 hours) in this case. Plaintiff is the prevailing party by virtue of the Judgment and Order of Remand entered April 8, 2013. The Acting Commissioner has not filed a timely response to the Application, nor requested additional time to respond. Thus, the Court in the exercise of discretion under LCvR7.1(g) deems the Application confessed. For this reason, and because Plaintiff has shown his entitlement to the relief sought, the Court finds the requested award should be made to Plaintiff, consistent with *Astrue v. Ratliff*, 130 S. Ct. 2521, 2529 (2010), and *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007).

Upon consideration of the law, the record, and the facts shown by the Application, the Court finds: (1) the Commissioner's position in this case was not substantially justified; (2) Plaintiff is entitled to an award of attorney's fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d); and (3) the amount of fees requested is reasonable.

IT IS THEREFORE ORDERED that Plaintiff's Application is GRANTED. The Court orders an award of attorney's fees to Plaintiff pursuant to the Equal Access to Justice Act in the amount of \$3,824.70. Should an additional fee award under 42 U.S.C. § 406(b) subsequently be authorized, Plaintiff's attorney shall refund the smaller amount to Plaintiff as required by *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 15<sup>th</sup> day of May, 2013.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE